

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROGER BASILE,

Plaintiff,

-against-

COUNTY OF NASSAU,
DETECTIVE JESSE PERKINS,
DETECTIVE ROBERT LASHINSKY,

Defendant.
-----X

AMENDED COMPLAINT

20-CV-00576 (EK)(LB)

Plaintiff, ROGER BASILE, (“Mr. Basile” or “Plaintiff”) by his attorneys, NASS ROPER & LEVIN, P.C. complaining of the Defendants, respectfully alleges, upon information and belief, as follows:

PARTIES

1. Plaintiff, Mr. Basile is a resident of the State of New York.
2. Defendant, COUNTY OF NASSAU, (hereinafter “NASSAU COUNTY”) is a municipal corporation, incorporated pursuant to the laws of the State of New York, which operates the Nassau County Police Department, and as such is the employer of the Defendant officers herein.
3. Defendants DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY were at all relevant times hereto, officers of the NASSAU COUNTY POLICE DEPARTMENT, and acted in that capacity as agents, servants, and/or employees of the NASSAU COUNTY and within the scope of their employment.
4. At all relevant times hereto, Individual Defendants were acting under the color of state and local law. Individual Defendants are sued in their individual and official capacities.

FACTUAL ALLEGATIONS

5. On or about October 11, 2018, Mr. Basile was arrested by members of the Nassau County Police Department, including by Individual Defendants.

6. Defendants transported Mr. Basile to the 7th Precinct. There Mr. Basile was held in an interrogation room where he was hand cuffed to a bench.

7. While in the room Mr. Basile was threatened, beaten and struck several times by DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY. As a result, Mr. Basile suffered a loss of consciousness, among other injuries. Mr. Basile was subsequently transported to Nassau University Medical Center.

8. Mr. Basile was formally charged with Grand Larceny in the 4th degree, under docket number 2018CR336070. The criminal charges were eventually dismissed.

9. Plaintiff in furtherance of the stated cause of action timely filed a Notice of Claim against NASSAU COUNTY, in compliance with the Municipal Law Section 50. The Notice of Claim was timely filed.

10. At least thirty (30) days have elapsed since the demand or claim upon which these actions are predicated was presented to NASSAU COUNTY for adjustment or payment thereof and that it has neglected and/or refused to make adjustment or payment thereof.

11. A 50-h hearing pursuant to GML § 50-h was held on October 3, 2019 at 1 West Street Mineola, NY by the Nassau County Attorney.

FIRST CAUSE OF ACTION **EXCESSIVE FORCE Pursuant to 42 U.S.C. §1983 and New York State Law**

12. Plaintiff incorporates herein by reference the allegations set forth in the proceeding paragraphs.

13. Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, used excessive force against Mr. Basile.

14. Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, had had no legal cause or reason to use excessive force against Basile.

15. Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, violated Basile's Fourth and Fourteenth Amendment right to be free from unreasonable seizures when they used excessive force against him.

16. At the time of the excessive force, Basile did not pose a threat to the safety of the officers.

17. Basile was not actively resisting custody or attempting to evade custody.

18. Basile suffered serious permanent physical injuries from Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, use of excessive force.

19. Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, actions were grossly disproportionate to the need for action and were unreasonable under the circumstances.

20. That by reason of Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, acts and omissions, acting under color of state law and within the scope of his authority, in gross and wanton disregard of Basile's rights, subjected Basile to excessive force while he was in custody, in violation of his rights pursuant to the Fourth and Fourteenth Amendments of the United States Constitution.

21. That at all times, Individual Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, were acting within the scope of their employment.

22. That Defendant, NASSAU COUNTY, was able to exercise control over Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, activities.

23. That Defendant, NASSAU COUNTY, is liable for Plaintiff's Excessive Force claim under New York State Law against individual Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, pursuant to the doctrine of *respondeat superior*.

SECOND CAUSE OF ACTION
ASSAULT and BATTERY Pursuant to New York State Law

24. Plaintiff incorporates herein by reference the allegations set forth in the proceeding paragraphs.

25. Upon information and belief, Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, intended to cause harmful bodily contact to Plaintiff.

26. Upon information and belief, Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, in a hostile manner voluntarily caused Plaintiff's injuries.

27. That Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, contact with Plaintiff constituted a battery in violation of the laws of the State of New York.

28. That as a result of the foregoing acts of the Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, Plaintiff, suffered severe emotional and/or

mental distress, all of which may be permanent in nature, and that as a result of the foregoing, the Plaintiff, has sustained damages, which exceed the jurisdictional limit of this Court.

29. That at all times, Individual Defendants, DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, were acting within the scope of their employment.

30. That Defendant NASSAU COUNTY was able to exercise control over Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, activities.

31. That Defendant NASSAU COUNTY is liable for Individual Defendants', DETECTIVE JESSE PERKINS and DETECTIVE ROBERT LASHINSKY, Assault and Battery under the doctrine of *respondeat superior*.

INJURY AND DAMAGES

As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer, emotional pain, suffering, inconvenience, injury to his reputation, loss of enjoyment of life, loss of liberty and other non-pecuniary losses. Plaintiff has further experienced severe emotional and physical distress.

WHEREFORE, Plaintiff respectfully requests that judgment be entered:

1. Awarding Plaintiff compensatory damages in a full and fair sum to be determined by a jury;
2. Awarding Plaintiff punitive damages in an amount to be determined by a jury;
3. Awarding Plaintiff interest from October 11th, 2018; and
4. Awarding Plaintiff reasonable attorney's fees pursuant to 42 USC §1988; and

5. Granting such other and further relief as to this Court seems proper.

Dated: Valley Stream, New York
June 21st, 2023

Respectfully submitted,

NASS, ROPER & LEVIN, PC



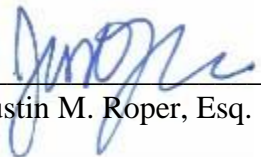
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ATTORNEY'S VERIFICATION

JUSTIN M. ROPER, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney and member of NASS ROPER & LEVIN, P.C., attorneys for Plaintiff ROGER BASILE. I have read the annexed AMENDED COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

DATED: Valley Stream, New York
June 21st, 2023


Justin M. Roper, Esq.

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– against –

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Defendants.

AMENDED COMPLAINT

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